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HOUSE BILL 961

46TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2003

INTRODUCED BY

Joseph Cervantes

AN ACT

RELATING TO TAXATION; AMENDING PROVISIONS OF THE INVESTMENT
CREDIT ACT TO EXTEND ELIGIBILITY FOR CLAIMING A CREDIT.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 7-9A-7.1 NMSA 1978 (being Laws 1983,
Chapter 206, Section 6, as amended by Laws 2001, Chapter 57,
Section 4 and by Laws 2001, Chapter 337, Section 4) is amended
to read:

"7-9A-7.1. EMPLOYMENT REQUIREMENTS. --

A. Except as provided in Subsection B of this
section, prior to July 1, 2011, to be eligible to claim a
credit pursuant to the Investment Credit Act, the taxpayer
shall employ the equivalent of one full-time employee who has
not been counted to meet this employment requirement for any
prior claim in addition to the number of full-time employees

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1 employed on the day one year prior to the day on which the
2 taxpayer applies for the credit for every:

3 (1) two hundred fifty thousand dollars
4 (\$250,000), or portion of that amount, in value of qualified
5 equipment claimed by the taxpayer in a taxable year in the same
6 claim, up to a value of two million dollars (\$2,000,000);

7 (2) five hundred thousand dollars (\$500,000),
8 or portion of that amount, in value of qualified equipment over
9 two million dollars (\$2,000,000) claimed by the taxpayer in a
10 taxable year in the same claim, up to a value of thirty million
11 dollars (\$30,000,000); and

12 (3) one million dollars (\$1,000,000), or
13 portion of that amount, in value of qualified equipment over
14 thirty million dollars (\$30,000,000) claimed by the taxpayer in
15 a taxable year in the same claim.

16 B. To be eligible to claim a credit pursuant to the
17 Investment Credit Act with respect to qualified equipment that
18 was purchased or introduced into New Mexico on or before
19 January 1, 2002, the taxpayer shall employ the equivalent of
20 one full-time employee who has not been counted to meet this
21 employment requirement for any prior claim in addition to the
22 number of full-time employees employed during the taxable year
in which the taxpayer is claiming the credit for every:

23 (1) two hundred fifty thousand dollars
24 (\$250,000), or portion of that amount, in value of qualified
25 equipment claimed by the taxpayer in a taxable year in the same

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1 claim, up to a value of two million dollars (\$2,000,000);

2 (2) five hundred thousand dollars (\$500,000),
3 or portion of that amount, in value of qualified equipment over
4 two million dollars (\$2,000,000) claimed by the taxpayer in a
5 taxable year in the same claim, up to a value of thirty million
6 dollars (\$30,000,000); and

7 (3) one million dollars (\$1,000,000), or
8 portion of that amount, in value of qualified equipment over
9 thirty million dollars (\$30,000,000) claimed by the taxpayer in
10 a taxable year in the same claim.

11 ~~[B.]~~ C. After June 30, 2011, for every one hundred
12 thousand dollars (\$100,000) in value of qualified equipment
13 claimed by a taxpayer in a taxable year, the taxpayer shall
14 employ the equivalent of one full-time employee in addition to
15 the number of full-time employees employed on the day one year
16 prior to the day on which the taxpayer applies for credit.

17 ~~[C.]~~ D. The department may require evidence showing
18 compliance with this section. The department may find that an
19 additional employee meets the requirements of this section,
20 although employed earlier than one year prior to the day on
21 which the taxpayer applies for the credit, if he was only being
22 trained prior to that date or his employment is necessitated by
23 the use of the qualified equipment."

24 Section 2. Section 7-9A-8 NMSA 1978 (being Laws 1979,
25 Chapter 347, Section 8, as amended) is amended to read:

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1 "7-9A-8. CLAIMING THE CREDIT FOR CERTAIN TAXES. --

2 A. A taxpayer shall apply for approval for a credit
3 within one year following the end of the calendar year in which
4 the qualified equipment for the manufacturing operation is
5 purchased or introduced into New Mexico or, if the qualified
6 equipment for the manufacturing operation was purchased or
7 introduced into New Mexico on or before January 1, 2002, within
8 five years following the end of the calendar year in which the
9 qualified equipment is purchased or introduced into New Mexico.

10 B. A taxpayer having applied for and been granted
11 approval for a credit by the department pursuant to the
12 Investment Credit Act may claim an amount of available credit
13 against the taxpayer's compensating tax, gross receipts tax or
14 withholding tax due to the state of New Mexico; provided that
15 no taxpayer may claim, except as provided in Subsection C of
16 this section, an amount of available credit for any reporting
17 period that exceeds eighty-five percent of the sum of the
18 taxpayer's gross receipts tax, compensating tax and withholding
19 tax due for that reporting period. Any amount of available
20 credit not claimed against the taxpayer's gross receipts tax,
21 compensating tax or withholding tax due for a reporting period
22 may be claimed in subsequent reporting periods.

23 C. A taxpayer may apply by September 30 of the
24 current calendar year for a refund of the unclaimed balance of
25 the available credit up to a maximum of two hundred fifty

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1 thousand dollars (\$250,000) if on January 1 of the current
2 calendar year:

3 (1) the taxpayer's available credit is less
4 than five hundred thousand dollars (\$500,000); and

5 (2) the sum of the taxpayer's gross receipts
6 tax, compensating tax and withholding tax due for the previous
7 calendar year was less than thirty-five percent of the
8 taxpayer's available credit but more than ten thousand dollars
9 (\$10,000). "

10 Section 3. EFFECTIVE DATE. --The effective date of the
11 provisions of this act is July 1, 2003.